

## **Special Agreement**

**between**

### **The Second City Canada Inc. & Toronto Musicians' Association**

American Federation of Musicians of the United States and Canada, Local 149

**EFFECTIVE DATE:** January 1, 2023, to December 31, 2026, effective upon ratification

#### **AGREEMENT**

The Second City Canada (herein called the “Theatre”), and the Toronto Musicians' Association (herein called the “Association”) in signing this document agree to uphold the terms of this special agreement.

The general purpose of this agreement is to secure for the members of the Toronto Musicians Association who are independent contractors the full benefits of orderly collective bargaining.

Musicians’ personal contracts for productions covered by this Agreement will not contain conditions that are less than any of the minimum conditions set forth in this Agreement without written consent of a duly authorized representative of the Association.

#### **ASSOCIATION RECOGNITION**

The Theatre recognizes the Toronto Musicians' Association, (the Association), as the exclusive bargaining agent for all instrumental musicians, musical director/conductors, assistant conductors, associate conductors, arrangers, orchestrators, contractors, copyists and librarians, (hereinafter called the “musicians”), engaged for productions on Second City Mainstage, Secondary Offering and Touring Productions.

### **1 CA-1 CONTRACT**

1.1 For every Mainstage, Secondary Offering and Touring production, the Theatre shall sign and execute a CA-I Live Performance Contract for Canada (Appendix 1), including the expected engagement weeks of the Production, with a member of the Association, which member shall be the Contractor or the Musical Director/Conductor. In so doing, the Theatre acknowledges that all the By-laws of the American Federation of Musicians of the United States and Canada, and all the By-laws of the Association, insofar as they are not in conflict with any of the provisions of this Agreement or any applicable laws or statutes, are made part of the contractual agreement between the musicians and the Theatre. For early closing of the Production see Article 16, for extensions at least two weeks' notice must be given and the extension weeks shall be considered engagement weeks for the Production.

#### **1.2 DEDUCTION & REMITTANCE OF THE MUSICIAN'S WORK DUES**

Theatre shall deduct 3% of the musician's basic fees, (including doubling and other performance premiums, but excluding negotiated over scale amounts, cartage or transportation), from the musician's remuneration and remit this amount bi-weekly to the Association by Electronic Funds Transfer (EFT), alongside a remittance form to be prepared by the Association.

## **2 ENGAGEMENT WEEK**

### **2.1 Main Stage**

An Engagement Week for Main Stage performances shall be Monday through Sunday with 1 day off (Free Day) in each week as designated by the Theatre. An engagement week shall consist of not more than 8 performances and may not exceed 42 hours of combined rehearsal and performance time. For any performance or rehearsal in excess 42 hours per week or 8 performances per week the additional fees as outlined under the schedule of fees will apply.

### **2.2 Touring Company**

An Engagement Week for the Touring Company shall be equivalent to the performers engaged under the agreement between The Theatre and Canadian Actors' Equity Association (CAEA).

### **2.3 Secondary Offerings**

An Engagement Week for Secondary Offerings shall be determined by the Theatre on a production by production basis, and submitted to the Association on the CA-I Contract. Notwithstanding the Engagement Week for Secondary Offerings shall not exceed the allowable hours or performances under Article 2.1 Main Stage.

## **3 PERFORMANCE**

3.1 A performance shall be no more than 3 hours in duration including an intermission of not less than 10 minutes shall be deemed complete when the last note is played.

3.2 The standard "call time" for a musician shall be 30 minutes prior to the scheduled commencement of the performance. However, at its discretion, the Theatre may require a call time for a musician of up to 60 minutes prior to the scheduled commencement of the performance in exchange for an additional fee of \$26. All musicians shall be in place a minimum of 5 minutes prior to the downbeat.

3.3 Overtime on performances shall be paid as outlined in Appendix B.

3.4 Additional performance(s) over 8 in any 1 week shall be paid at the additional performance rate. For touring musicians additional performances shall be governed in the exact same manner as the provisions in the agreement between the Theatre and CAEA.

3.5 The Theatre may pro-rate the Musical Directors weekly engagement fee at the beginning and/or end of the run of a production based on the following terms and conditions, provided there are at least 2 consecutive full weeks of engagement. The week of the first public performance the Theatre may pro-rate at 1/8th of the Weekly Performance Fee for each dress rehearsal and/or performance. At the end of the run of the production, (provided the Musical Director has received a minimum notice of two full weeks of the closing of the production as required by Article 16), the Theatre may pro-rate at the rate of 1/8th of the Musical Director's weekly engagement fee for each performance and consecutive non- performance day. The terms and conditions of this Agreement apply for any pro-rata performances including, but not limited to, payment for overtime, Free Day service and statutory holiday performances. If the Musical Director is engaged for 5 or more days of the engagement week at the end of the run, the weekly engagement fee shall apply.

3.6 If in any week (Monday to Sunday) no Free Day is scheduled from rehearsals or performances, the service(s) on the 7th day shall be paid at double the regular rate for that service. This double rate provision also applies to any performance in excess of:

3.6. a) 2 performances in 1 day, or

3.6. b) 5 performances in any consecutive 3 day period and all subsequent performances until there is a break of at least 21 hours from the end of one performance to the beginning of the next

3.6. c) any performance following 9 consecutive performance days until the musicians receive a Free Day.

## **4 REHEARSALS**

4.1 Rehearsals shall require a 2-hour minimum call.

4.2 There shall be a meal break of not less than one (1) hour after a period of not more than five (5) consecutive hours of rehearsal. Rehearsal time extended beyond five hours (5) without a meal break shall incur an invasion of meal break penalty as set out in Appendix B of this Agreement.

4.2 In addition to the meal break, during all rehearsals there shall be a break of not less than five (5) minutes per hour. A rehearsal break shall not be taken in the first 1/2 hour or the last 1/2 hour of the scheduled rehearsal. No rehearsal shall continue for more than 2 1/2 hours without a break. At the beginning of each program the Theatre shall make it clear that musicians engaged under this agreement should not be asked to perform any extra duties during break time.

4.3 Any rehearsal after press opening for cast replacements, understudy rehearsals, or any other reason shall require 48 hours' notice. Where less than 48 hours' notice is given the musician(s) will make best efforts to be available for the rehearsal.

4.4 The 2 hour minimum call is waived in the circumstance where the Theatre Company/Producer elects to call a rehearsal which is contiguous to and immediately precedes a performance. The rehearsal shall commence 1 1/2 hours prior to the scheduled start of the performance, and the duration of the rehearsal shall not exceed 1 hour. This rehearsal shall be at the applicable pro rata rehearsal rate of 1 hour and shall require notice as provided in Art. 4.3 above.

## **5 OWNERSHIP AND CREATIVE COMPENSATION**

### **5.1 CREATIVE COMPENSATION**

5.1 The Musical Director shall be paid a Creative Compensation fee of \$4,000 for each Main Stage numbered revue process in which they are involved, and \$500 for Touring and Secondary Offering Productions with at least 50% original content. For clarity, adjustments to archival musical material do not constitute the creation of original content. For other productions the Musical Director may negotiate terms outside of this Agreement, and outside the jurisdiction of the Association. This payment shall be made after the Press Opening in two (2) consecutive payments as outlined in a rider to the Musical Directors CA-I Contract and standard deductions and pension shall apply.

## 5.2 OWNERSHIP OF MATERIAL

**Definition of “Material”.** Material as used in this Clause includes all works of authorship, content, ideas, and work product created, developed, and/or authored, in whole or in part, directly or indirectly, by or on behalf of the Musical Director during rehearsals, performances, or otherwise, including but not limited to lyrics, melodies, rhythms, harmonies, and any combination or compilation thereof.

**Definition of “Net Proceeds”.** For the purpose of this Clause, Net Proceeds is defined as only the license fee or purchase price actually received by the Theatre in respect of the license or sale of rights in the Material to a third party studio, network, or distributor (each a “Third Party”) less all direct costs incurred by or on behalf of the Theatre in developing, producing, distributing, and otherwise exploiting the Material and the rights therein, including but not limited to all costs incurred by the Theatre to prepare and deliver materials to the licensee or purchaser of the Material, including internal labour costs; a reasonable amount for overhead not to exceed 15% of the license fee or purchase price; legal and accounting costs (including such costs payable to external advisors); agency or management fees; applicable taxes and withholdings; contractual participations, advances, deferred fees, and residuals payable to third parties; and other costs (such as the costs of translations or dubbing) as required to effect a license or sale.

For clarity, Net Proceeds do not include any form of fees or compensation payable to the Theatre or its affiliates/designees in connection with any services on productions based on the Material or any elements thereof.

**Ownership of Material.** In exchange for the Creative Compensation fees paid under this Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is agreed that all Material shall be the sole and exclusive property of the Theatre, with effect immediately upon its creation. Musical Directors hereby irrevocably transfer and assign, and agree to transfer and assign, to the Theatre all right, title and interest in and to the Material, in whatever forms and state of completion it may exist from time to time, including all copies thereof and all intellectual property and other proprietary rights and interests of any kind whatsoever embodied therein, including without limitation copyright. Musical Directors also waive, and agree to waive, any and all moral rights in and to the Materials. Upon request by the Theatre, the Artists will execute and provide to the Theatre any further documents or materials that the Theatre may request to better evidence or give effect to the Theatre’s ownership of the Material, including without limitation any written assignment of copyright or written waiver of moral rights, in a form suitable to the Theatre.

Should the Theatre ever sell or license any Material for use by a Third Party, the Theatre will pay a total of fifty percent (50%) of the Net Proceeds actually received by the Theatre in respect of the sale or licence of that Material to the Musical Director or the Musical Directors collectively who participated directly in the creation of that Material. Where two or more Musical Directors participate directly in the creation of Material, the proceeds, in consultation with the Association, shall be distributed on an equal basis amongst them. It is agreed that the Theatre shall have fulfilled all its obligations hereunder by payment of the fifty percent (50%) share to the Musical Director(s), and the Musical Director(s) shall not be entitled to any further compensation for the exploitation of the Material, including from the Theatre’s licensees or assigns. For greater certainty, where the Theatre sells or licenses Material together with material, including dramatic or other works, created by others

("Other Material"), the Theatre shall make a good-faith allocation of the Net Proceeds attributable to the sale or licence of the Material, as opposed to the Other Material, for purposes of the payment contemplated by this section.

For clarity, the Theatre and its affiliates, licensees and assigns shall have the exclusive right to exploit (including, without limitation, sell, lease, or license) any Material. A Musical Director may request the use of Material that the Musical Director has created, or in which the Musical Director has participated in creating, for the purposes of a non-airable and non-exploitable audition, performance showcase, or submission for a similar sketch comedy-based production, or for the Musical Director's own personal publicity or promotion, subject to the Theatre's written approval in each instance. The Theatre will not unreasonably withhold such approval provided that the requested use does not conflict with any of the Theatre's own uses of the Material (at the Theatre's discretion) or the rights of any third party.

## **6 FEES**

### **6.1 SCHEDULE OF FEES**

The fees outlined in Appendix B are the basic minimum fees, and musicians are not precluded from negotiating higher rates of remuneration.

### **6.2 ADDITIONAL/OVERSCALE FEES**

Any Musical Director engaged by the Producer may negotiate a fee in addition to those set forth herein. Notification of such request to negotiate shall be made in writing by the Musical Director, and the producer shall enter into negotiation in good faith within 2 weeks of receipt of such notice. The Association may appoint a Board member or a senior staff appointee to conduct such negotiations on behalf of the musician if requested to do so by the musician. In this event, the musician shall promptly notify the Producer in writing of such appointment. Any additional compensation agreed to as a result of such special negotiation shall be included in the engagement contract (Art.1) and indicated as an over-scale fee.

## **7 MUSICIANS PENSION FUND OF CANADA**

7.1 The Theatre shall make pension contribution payments at 11% over and above the basic fees (including doubling and other performance premiums, but excluding negotiated over scale amounts) as set forth herein. Pension payments shall be made at the same time as work dues payments, if in the form of a cheque payable to the Musicians' Pension Fund of Canada and mailed to the Association office, if in the form of EFT in the same EFT as work dues.

## **8 MUSICAL DIRECTOR**

The Musical Director shall be responsible for the music at all levels which may include attendance at cast auditions, production meetings and rehearsals. The Musical Director shall be responsible for conducting the musical rehearsals and performances. They shall be responsible for maintenance of the musical standards during the run of the show. The Musical Director shall notify the Association of any theatrical production for which they may be engaged as Musical Director prior to commencing duties pertaining thereto. The music director shall be responsible for maintaining the cleanliness and good order of their workspace and performing whatever setup and maintenance of audio equipment that is within their abilities, and to advise

on when external technicians need to be engaged by the Theatre in order that sound systems are maintained appropriately.

## **9 UNDERSTUDIES TO MUSICAL DIRECTORS**

9.1 The Theatre shall secure an understudy to the Musical Director within 30 days of press opening of a Mainstage resident revue provided that the following terms are met by said Musical Director:

a) A show run document is presented to the theatre within fourteen (14) days of press opening. This document outlines set up, show run, and tear down procedures, a full list of musical charts for all non-improvised instrument playing, a full suite of recordings of actor harmonies and songs.

Upon receipt of this complete show run document, the Theatre will procure understudy music directors from either within the building or through an audition process. The Theatre shall only identify understudies already engaged by the Theatre if that musician is not in scheduling conflicts between the productions they already are working on for the Theatre and those for which they will serve as understudy. The theatre will schedule rehearsal time with both the Music Director and Understudy prior to the first scheduled absence of the Musical Director.

## **10 PERMITTED ABSENCES**

### **10.1 VACATION ALLOTMENT**

For each six (6) months of engagement, the Musical Director shall be entitled to one (1) Monday through Sunday week of unpaid vacation. This vacation time does not accrue from one contract to the next.

### **10.2 NOTICE OF VACATION**

The Musical Director will give the Theatre not less than five (5) weeks' notice of the date of the Musical Directors intended vacation, which will be approved or declined within one week of receipt of the request. Vacation requests are first come first served and may be declined if; the understudy is unavailable, if the performance schedule does not allow a week off, and if 30 days have not passed since press opening.

### **10.3 OTHER ENGAGEMENTS**

The Theatre shall allow the Musical Director to absent themselves subject to the deductions in 10.5 for the purpose of accepting other opportunities. The Theatre may deny requests for such absences where they occur within 30 days of Press Opening, where the request is made with less than 48 hours' notice per day off requested, and where no understudy can be found. Otherwise, such requests for work opportunities shall be deemed approved up to a maximum of fourteen consecutive days, only to be greater with agreement of the Theatre.

### **10.4 SICK DAYS**

The Theatre may not deduct any amount from the weekly contractual fee for rehearsal or performance missed due to illness or injury. After seven (7) consecutive days missed, the following provisions shall apply:

(A) Termination For Illness

When the Artist shall have been absent for seven (7) consecutive days by reason of illness or accident, the Theatre may terminate the Artist's TMA Engagement Contract at the end of the said seven (7) days effective immediately.

(B) Payment

This seven (7) day period shall be compensated at the contractual fee, plus per diem if applicable. The Theatre may, at its discretion and in accordance with legislation require the Artist to present a doctor's certificate.

(C) Replacement

In the event of an incapacitating accident or illness, the Theatre may replace the Artist immediately, but the Theatre shall be obliged to compensate the Artist for the full seven (7) days.

10.5 DEDUCTION AND PAYMENT OF UNDERSTUDY OF FEES

For a voluntary absence on a one day performance day, the Theatre may deduct 1/8 of the Musical Directors weekly fee.

For a voluntary absence on a two day performance day, the Engager may deduct 2/8 of the Musical Directors weekly fee.

The Theatre shall be responsible for the paying understudy wages equal to the deductions outlined in 10.5, and applying the same premiums, work dues deductions and pension payments (for Association members).

10.6 BEREAVEMENT LEAVE

Musicians shall be entitled to take up to three (3) days of bereavement leave from their scheduled rehearsal and/or performance days without loss of fee if a member of the Musician's immediate family (spouse, domestic partner, parent, child, sibling, in-law, grandparent, or grandchild) dies.

10.7 PERSONAL DAY

With the Theatre's express permission, a Musician shall be entitled to use one (1) paid personal day off in each six (6) month period of engagement. The Musician must give the Theatre not less than a one (1) week's notice of desire to use a personal day.

**11. WORKING CONDITIONS**

Theatre Companies/Producers and musicians are reminded that any theatrical venue is deemed to be workplace, and in consequence is subject to the provisions of the Occupational Health and Safety Act, R.S.O, and related Safety Guidelines for the Live Performance Industry in Ontario Theatre Companies/Producers shall ensure that a copy of the O.H.S.A. Regulations and a copy of the Guidelines is posted on the notice board in all theatrical venues.

## **12 HIRING PRACTICES**

All musicians engaged by the Theatre for a whole week or more or for at least one service during two consecutive calendar weeks or more shall be members of the Association, or become a member of the Association within thirty (30) days of meeting these conditions.

## **13 OFFERS**

The Theatre will endeavour to issue written offers (which, for clarity, include offers issued via email) to Musical Directors no later than two weeks prior to the first rehearsal for a production. An offer will include all proposed fees, and the intended dates and hours of engagement. Except in emergent circumstances, the Theatre will provide Musical Directors not less than forty-eight (48) hours to respond to an offer.

For clarity, nothing in this Clause limits the Theatre's right to require in a written offer the execution and provision to the Theatre of further documents or materials to better evidence or give effect to the Theatre's ownership of Material as outlined in this Agreement, including without limitation, any written assignment of copyright or written waiver of moral rights in a form suitable to the Theatre.

## **14 DISCRIMINATION**

14.1 The policy of engaging musicians hereunder, in accordance with the Ontario Human Rights Code, shall be without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

## **15 DISMISSAL**

15.1 The Theatre may terminate a Musician's contract: i) by providing the Musician four (4) weeks' notice and continuing the Musician's regular contractual fees during the two-week notice period; or ii) effective immediately, upon providing the Musician with a payment equivalent to four weeks of the Musician's regular contractual fees.

15.2 Notwithstanding the foregoing, the Theatre may terminate a Musician's contract without notice or pay in lieu of notice for just cause.

## **16 CLOSING OF PRODUCTION**

16.1 The closing of a production shall require the Theatre to give the musicians and the Association 2 week written and posted notice of closing. A 2 week notice shall constitute 2 Monday-to- Sunday periods.

## **17 DIGITAL SCREENS AND PROGRAMS**

17.1 A program may, in the Theatre's discretion, be in paper or digital format.

17.2 The name of the regular contracted Musical Director shall be displayed on a digital screen in a type equal to that of the cast. Where the biographies of the actors are printed in the program the Theatre will make best efforts to include biographies of the regular contracted Musical Director. The Musical Director shall have right of approval over biographical material and photographs for use in all programs and souvenir publications.

17.3 The Association shall receive appropriate recognition in the section of the program and souvenir publications where similar credits are listed for other performers' and technicians' associations, guilds or unions. The recognition should read, "The Musical Director engaged for this production are members of the Toronto Musicians' Association, Local 149 of the American Federation of Musicians of the United States and Canada."

17.4 Whenever anyone other than the author and/or composer and/or director and/or producer is listed in publicity material under the Theatre's control the Musical Director/Conductor will receive billing. The size and position of the billing will be negotiated at the time of engagement.

17.5 Whenever anyone other than the author and/or composer and/or director and/or producer is listed in the billing page of the program or any souvenir publication the Musical Director/Conductor shall be listed. The size and position of the billing will be negotiated at the time of engagement.

## **18 RECORDED MUSIC AND ELECTRONIC MUSIC DEVICES**

18.1 Recordings, tapes or other unattended mechanical devices may not be used to accompany or to provide background music. Recorded music of any type shall not be used as a substitute for hiring a Musical Director. The Theatre agrees that SOCAN has the legal right to license the use of such recorded material and to collect fees therefore.

18.2 All music for a Production must be performed by a member of the Association, including performance on Electronic Music Device(s). In rare circumstances a member of the Association may assign the performance of music, no more than two minutes in duration, to the stage manager, as long as the member of the Association is engaged for the Production where the assignment occurs.

18.3 Cast members that normally are actors with significant lines may play musical instruments as a minor part of a production without being included under this agreement.

## **19 RECORDING PROVISION**

19.1 If the Theatre Company/Producer, alone or in association with any entity, produces for any purpose a film, video, commercial announcement or "The Making of....." video or film, or documentary, or a transcription of the "Toronto Production" which is titled and/or characterized as the "Toronto (or) Canadian Cast Recording", then the Theatre Company/Producer shall guarantee the offer of employment for any such transcription to all contracted members who have the run of the show. Such offer shall be made at least two (2) weeks prior to the actual recording date.

19.2 The Theatre Company/Producer also agrees that the terms and conditions of the applicable A.F.M. Electronic Recording agreements will apply to all aforementioned recordings and that the fees paid to the musicians will be no less than the minimums provided for in those agreements. Where an electronic

transcription is not covered by an A.F.M. agreement, the Theatre Company/Producer agrees to negotiate with the Association to establish the minimum fees and conditions on a case-by-case basis.

## **20 PROMOTIONAL RECORDINGS**

20.1 Portions of a performance and/or rehearsal, including the performances of the Musical Director and any other musicians who appear or are involved therein, may be filmed or recorded for insertion in a news or magazine type program, or for use on recordings exclusively exhibited on websites and or social media that is controlled by the Theatre, without further compensation to the Musical Director or those other musicians. No more than two (2) minutes of said performance or rehearsal shall be broadcast in any thirty (30) minute period. The time in which such performance or rehearsal may be recorded shall be limited to one-half (1/2) hour. The Theatre Company/Producer shall notify the Association at least forty-eight (48) hours in advance of such recording or filming.

Should a recording made under this article be utilized in whole or in part in any new product or medium, including but not limited to commercial announcements, the Theatre shall enter into and shall fulfill all conditions required by the then current applicable AFM Agreement pertaining to such use, including but not limited to all fees and benefits.

## **21 ARCHIVAL RECORDING**

A video or audio recording of a production may be made for archival purposes under the following conditions:

*The recording is to be used exclusively for archival, reference and study purposes.*

*The recording shall remain under the control of the Producer and will not be sold, leased, licensed or lent out for any purpose.*

*The recording may not be replayed in public or broadcast in any manner.*

*The recording shall be labelled "For Archival and Study Purposes Only".*

Should the recording ever be utilized by any party for any purpose not explicitly set forth herein the Producer agrees to enter into and fulfil all conditions required by the appropriate AFM agreement, including, but not limited to the payment of the prevailing fees and allied benefits as required therein.

## **22 RUNNING ORDER**

When a Performer's understudy is not available and an altered running order is required for a performance, the Musical Director shall receive a total of twenty five dollars (\$25.00) per performance in addition to their contractual fee.

## **23 WORKSHOPS**

### **23.1 WORKSHOPS FOR COMMERCIAL THEATRE**

If the Theatre is considering a workshop of a proposed Production outside of the scope of the usual Main Stage development process, they shall contact the Association for applicable fees and conditions governing the engaging of workshop musicians.

## **24 DISPUTE RESOLUTION, GRIEVANCE AND ARBITRATION**

24.1 Please refer to Appendix C.

## **25 ANTI-HARASSMENT & OTHER POLICIES**

25.1 Please refer to Appendix D for the Anti-Harassment Policy. The Association acknowledges that the theatre may have, and amend, other policies that apply to musicians, as long as those policies are not in contravention with this agreement and are reasonably conceived and applied

## **26 REPRESENTATIVES OF THE ASSOCIATION**

Representatives of the Association shall have access to the performance and rehearsal venues for the purpose of conferring with the musicians. The Association will make best efforts to provide the Theatre with 24 hours' notice of any such meetings.

## **27 DURATION**

This Special Agreement shall be in effect upon ratification commencing January 1, 2023 and terminating on December 31, 2026.

Should either party give notice to the other to negotiate a successor agreement by October 1, 2026, negotiations shall ensue.

Should no notice be provided, the parties agree that the agreement shall be automatically extended by 12-month periods, with the notice provision repeating each year.

Contract years are as follows:

First year- January 1, 2023 through December 31, 2023

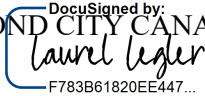
Second year- January 1, 2024 through December 31, 2024


Third year- January 1, 2025 through December 31, 2025

Fourth year- January 1, 2026 through December 31, 2026

The undersigned acknowledges receipt of the same and full notice of all provisions, rules and regulations contained therein; and further agree to be bound by any interim modifications and/ or amendments to said Special Agreement, which may become effective during its term.

AGREED

DocuSigned by:  
THE SECOND CITY CANADA INC.  
Signature:   
F783B61820EE447...  
Name and Title: Laurel Legler VP, People  
Date: 7/19/2024

TORONTO MUSICIANS ASSOCIATION  
Signature:   
Name and Title: Executive Director  
Date: April 30, 2024

### CONTACTS

For the Association:

Dusty Kelly, Executive Director  
(416) 421-1020 | [dusty@tma149.ca](mailto:dusty@tma149.ca)

For the Theatre:

Laurel Legler, VP of People  
(312) 475-3577 | [llegler@secondcity.com](mailto:llegler@secondcity.com)

Susan Waycik, Producer - Resident Stage  
(647) 557-6115 | [swaycik@secondcity.com](mailto:swaycik@secondcity.com)

# APPENDIX A

## CA-1 Live Performance Contract for Canada



**TORONTO MUSICIANS' ASSOCIATION**  
LOCAL 149 OF THE CANADIAN FEDERATION OF MUSICIANS AND  
AMERICAN FEDERATION OF MUSICIANS

CONTRACT # \_\_\_\_\_



Form LPCC Side I



### LIVE PERFORMANCE CONTRACT FOR CANADA

Whereas this contract is entered into by the undersigned engager (herein referred to as the "Purchaser") for the personal services of the musician(s)/performer(s) named on the reverse (Side II) of this contract (herein referred to as the "Musicians") who are engaged severally through their representative, being the undersigned Leader. This contract confirms that said Musician(s) will hold themselves available to perform according to the terms and conditions set out in herein.

Name of Act/Band/Orchestra/Group: \_\_\_\_\_ consisting of \_\_\_\_\_ Musician(s).  
(state number)

AND WHEREAS, it is acknowledged by all parties named herein, that the Musician(s) (including their representative Leader) are members of Local(s) (herein referred to as the "Local") of the Canadian Federation of Musicians and American Federation of Musicians (herein referred to as the "AFM") and nothing in this contract shall ever be so construed as to interfere with any obligations which the Musicians may owe to their respective Local as provided under its rules, regulations, bylaws or constitution and those of the AFM which, under the circumstances, may be appropriate;

AND WHEREAS, said member Musician(s) (including the Leader) according to said rules, are bound to adhere to the professional standards (code of ethics) as established and maintained by the AFM and its Locals;

AND WHEREAS, the terms and conditions set out in (i) the recitals hereto and (ii) in SCHEDULE I on Side II hereof all of which form an integral part of this contract in conjunction with the details specified in these SECTIONS A, B and C and as in attached rider. Rider attached? Yes  No

NOW THEREFORE, for the good and valuable considerations set out herein, the parties expressly agree further as follows:

#### SECTION A - Particulars of Performance(s)

Purpose: \_\_\_\_\_  
(Name of Performance and Category (Concert, Recital, Party, Production))

Venue: \_\_\_\_\_  
(Street Address, telephone etc.)

Date(s) of performance(s): \_\_\_\_\_

Hours: \_\_\_\_\_  
(Number of Performances, Starting Time, Finishing Time etc.)

Special requirements: \_\_\_\_\_

<b>FEES AGREED UPON:</b>	\$ _____	+ 13% HST (as applicable on agreed upon fee or musician's fee)	\$ _____	+ 4% Pension Payable (on scale fees)	\$ _____	= Total Payable	\$ _____
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Leader To Be Paid As Follows: (Please state when payable and method of payment i.e. cash, certified cheque etc.)

<b>DEPOSIT AMOUNT</b>	\$ _____	to be included with signed copy of contract;	<b>BALANCE</b>	\$ _____	<b>TO BE PAID ON</b>
<b>(non-refundable):</b>			<b>AMOUNT:</b>		<b>OR BEFORE:</b>

*Note: Unspecified overtime is subject to (i) availability of performing Musician(s) and, (ii) payment of additional fees to be paid at the rate of 50% extra over and above the pro rata amount of the Fee agreed upon, per quarter hour segment or less.*

Purchaser's Name: \_\_\_\_\_ (Full name proper complete name) Leader's Name: \_\_\_\_\_ (Full name proper complete name of band/ensemble)

Mailing Address: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ City: \_\_\_\_\_

Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_ E-Mail: \_\_\_\_\_

*The Signatory to this contract accepts personal liability for the fees payable herein, unless said Signatory is the authorized representative of a purchaser who is financially solvent and has the legal capacity to be bound by all provisions hereof.*

*The Signatory/Leader in signing this contract acknowledges being the Musician(s)' representative who, on behalf of the Musician(s) named herein, agree to provide the performance(s) according to the terms set out above and in Schedule I (see Side II).*

**We, the signatory parties, confirm the terms detailed herein and in SCHEDULE I on the reverse or as attached:**

Purchaser's Signature \_\_\_\_\_ / / month day year Leader's Signature \_\_\_\_\_ / / month day year

#### Section B - Musicians' Pension Fund of Canada Contributions

The Purchaser (named herein), designates the pension payable to the personal accounts of the Musicians performing herein pursuant to the terms and conditions of the Musicians' Pension Fund of Canada. The Purchaser shall choose whether to pay the fund directly or pay the leader who will in turn pay the fund on the Purchaser's behalf. In ALL CASES the payment shall come to the Local fund, either in the form of a cheque made out to MPFC or direct deposit to the Local's escrow account.

Purchaser pays Musicians Pension Fund of Canada directly:  OR

Purchaser pays Leader and Leader pays Musicians Pension Fund of Canada on behalf of Purchaser:

Purchaser's initials confirms this designation of funds: \_\_\_\_\_ Leader's initials confirms agreement herein: \_\_\_\_\_

**SECTION C - Musician(s) Details**

*Note: Pursuant to specific provisions of the Ontario Consumer Protection Act, the name and address of all musicians must be included in all duplicate copies of this executory form contract. Other Provinces and Territories may have similar statutes.*

Local	(For additional Musicians, attach a Continuation Sheet (or list)) Surname	Given Name(s)	SIN	Work Dues (3%)	Scale Fees	Pension Payable (8-18 %)
	(Leader)					
	(Address)					
	(Steward)					
	(Address)					
	(Musician)					
	(Address)					
	(Musician)					
	(Address)					
	(Musician)					
	(Address)					
	(Musician)					
	(Address)					
	(Musician)					
	(Address)					
	(Musician)					
	(Address)					

**SCHEDULE 1 - AFM/LOCAL REQUIREMENTS (AS THEY RELATE TO THE PERFORMANCE(S) CONTRACTED HEREIN)**

No performance or rehearsal on the engagement shall be recorded, reproduced, broadcast or transmitted from the place of performance, in any manner or by any means or media whatsoever, in the absence of a specific written agreement with the American Federation of Musicians relating to and permitting such recording, reproduction, broadcast or transmission. This prohibition shall not be subject to any waiver or procedure of arbitration and the American Federation of Musicians may enforce this prohibition in any court of competent jurisdiction.

On behalf of the Purchaser, the Leader will distribute the amount received from the Purchaser to the Musicians, including himself, as indicated in this agreement. The amount paid to the Leader includes the costs of transportation, which will be reported by the Leader to the Purchaser. The Purchaser hereby authorizes the Leader on his behalf to replace any Musician who, by illness, absence, or for any other reason, does not perform any or all of the services provided for under this agreement. The agreement of the Musicians to perform is subject to proven detention by sickness, accidents or accidents in means of transportation, riots, strikes, epidemics, acts of God, or any other legitimate conditions, beyond the control of the Musicians. The Purchaser agrees that the Business Representative of the Musicians' Local, in whose jurisdiction the Musicians are playing, shall have access to the premises in which the Musicians perform for the purpose of conferring with the Musicians. The Musicians performing services under this agreement must be members of the American Federation of Musicians and nothing in this agreement shall ever be construed as to interfere with any obligations which they may owe to the American Federation of Musicians.

The parties to this agreement will submit every claim, dispute, controversy or difference involving the musical services arising out of, or connected with this agreement, and the engagement covered thereby, to the appropriate Local for local engagements, or the Canadian office of the American Federation of Musicians for all travelling engagements. If a mutually acceptable settlement between the parties is not reached, either party to this agreement may proceed to the appropriate Canadian court of justice for an adjudication of the matter in dispute.

The Purchaser represents that there does not exist against him, in favour of any musician-member of the American Federation of Musicians, any claim of any kind arising out of musical services rendered for the said Purchaser. It is agreed that no musician-member of the American Federation of Musicians will be required to perform any provision of the agreement, or to render any services for the said Purchaser, in so long as any claim is sustained or unpaid, in whole or in part. The Purchaser in signing this agreement for himself, or having same signed by a representative/manager, acknowledges his (her or their) authority to do so and hereby assumes liability for the amount stated herein.

Any member or members who are parties to or affected by this agreement, whose services thereunder or covered thereby, are prevented, suspended or stopped by reason of any strike, ban, unfair list order or requirement of the Federation, shall be free to accept other engagements of the same or similar character, or otherwise, for other purchasers of music or other purposes without any restraint, hindrance, penalty, obligation or liability whatever, any other provisions of this agreement to the contrary notwithstanding.

The Purchaser hereby covenants and agrees to obtain and pay, prior to the engagement mentioned in this agreement, all and any license and fees required to be obtained by or to be paid to the Society of Composers, Authors and Music Publishers of Canada (SOCAN), or any other person, firm or corporation legally entitled to require licensing and/or payment of fees with respect hereto, and indemnify and save harmless the Musicians and their Representative of and from any and all claims now or hereafter made by them or any one or more of them with respect to the said engagement.

No deduction from agreed price shall be made for holidays or other byoffs unless herein specified.

This contract cannot be cancelled without the express, written consent of both parties.

**NOTICE:** *This form of contract is protected by copyright. Its use to cover the services of any Musician(s) who are not members of the AFM is strictly prohibited and may subject the non-member user to legal sanctions.*

Toronto Musicians' Association, Local 149 of CFM and AFM  
 15 Gervais Drive, Suite 500, Toronto, ON M3C 1Y8, Canada  
 1-416-421-1020  
[www.tma149.ca](http://www.tma149.ca)  
[info@tma149.ca](mailto:info@tma149.ca)

**APPENDIX B SCHEDULE OF FEES**

B1 All fees apply to the Musical Director and/ or Contractor as leader(s), as well as any additional musicians.

B2 When more than three musicians are engaged doubling and premiums shall apply as per the Association’s General Theatre Agreement in effect at the time of engagement.

B3 Mainstage

Minimum Weekly Fee Scale Fees, up to and including forty-two (42) hours of combined rehearsal and performance time per week.	\$1275
Additional Performances In excess of eight (8) Performances Per Week	\$239
Overtime – per half hour. Combined performance/rehearsal in excess of forty-two (42) hours per week	\$23
Overtime per fifteen (15) min – performance calls in excess of three (3) hours.	\$16.50
Invasion of Meal Break*, ** *For any invasion of the one (1) hour break between rehearsal and performance call time or between two performances.	First half hour - \$18.50 ** Second half hour - \$39.25 **
Understudy Fee – per performance	\$159.38
Understudy Fee – per rehearsal	\$159.38
Understudy Learning Fee* *Fee paid to understudies for independently learning the show.	\$306

B4 TourCo.

Performance Fee – per performance	4 shows or more per week \$120 3 shows per week \$132 2 shows or 1 show per week \$147.50
Rehearsal Fee* – per hour** *Minimum four (4) hour call **Attendance at production meetings and for activities related to production will be paid at the rehearsal rate.	\$26
Understudy Learning Fee	\$306
Touring Per Diem	Before 6pm - \$31.47
	After 6pm - \$60.39

B5 Secondary Offerings

Secondary Offerings will be paid at Main Stage rates but shall be subject to prorating for the number of performances. Notwithstanding musicians engaged for Secondary Offerings will be paid a minimum of 50% of the weekly rate in B3 above for every week engaged.

B6 Annual Increase

Main Stage and Touring fees shall increase by 3% (2024), 2% (2025), 2% (2026) on the anniversary of the Agreement.

\*\*NB: With the exception of the Invasion of Meal Break, in respect of which Second City will mirror the CAEA Agreement.

## **APPENDIX C                    DISPUTES, RESOLUTION OF (GRIEVANCE AND ARBITRATION)**

All disputes involving a claim of violation of this Agreement (hereinafter the “grievance”), including a claim by any musician that they have been disciplined or discharged without just cause, shall be resolved in the following manner:

a) Step 1 - Such dispute or disagreement shall immediately be brought to the attention of the Association who shall forthwith report the matter to the Theatre. Upon receipt of this notice of a dispute or disagreement, the Theatre and the Association shall discuss and attempt to resolve the matter. If the dispute or disagreement has not been satisfactorily resolved within forty-eight (48) hours after receipt of the notice of dispute/disagreement;

b) Step 2 - The aggrieved musician or group of musicians shall file a written grievance with the Theatre. Alternatively, the musician or group of musicians may file such grievance commencing with Step 3.

c) The Association or the Theatre Company/Producer shall also have the right to file a grievance on their own behalf commencing at Step 3.

d) Step 3 - If the grievance is unresolved at Step 2, or if the musician or group of musicians chooses to proceed directly to Step 3, the grievance may be filed by the musician or group of musicians through the Association with the Theatre. The Theatre may file a grievance with the Association to the attention of its Executive Director.

e) Step 4 - If the grievance remains unresolved ten (10) business days after the conclusion of Step 3, either party may give written notice to the other that it wishes to submit the grievance to arbitration. Either party in its submission, may stipulate that the issue shall be dealt with by a three-person arbitration board, failing which a single Arbitrator shall act in the matter. If the parties are unable to agree upon the appointment of an Arbitrator within ten (10) days after the notice has been given, then a single Arbitrator shall be appointed by Arbitrators Clearing House at the request of either party. The arbitration shall be governed by the Ontario Labour Relations Act. The expenses of the Arbitrator shall be shared equally by both the Association and the Theatre.

f) The arbitration award will be binding upon the parties to this Agreement and the individual musician(s) directly affected thereby. The decision of the majority is the decision of the Board of Arbitration. If there is no majority decision, the decision of the Chairman (or single Arbitrator) shall govern.

g) The time limits provided under the Grievance Procedures herein may be extended by mutual agreement of the parties.

h) The Board of Arbitration is not authorized to make a decision inconsistent with the provisions of this Agreement, nor to alter, modify, amend, add or delete any part of this Agreement.

## **APPENDIX D ANTI-HARASSMENT POLICY**

### **A. Principle.**

The Association and the Theatre will strive to work together to provide an environment that is free of harassment and supportive of personal dignity, self-esteem and fair treatment. Harassment will not be tolerated as part of any matters associated with this Agreement.

### **B. Harassment.**

#### **1. General.**

*Harassment is subjection to any conduct or comment which is known, or ought reasonably to be known to be unwelcome or offensive, which creates an intimidating working environment, or which denies individual dignity and respect. It should be noted that a person does not have to be a direct target of harassment to be adversely affected by conduct or comments that create and maintain an offensive, hostile, or intimidating work environment.*

#### **2. Personal Harassment.**

*Behaviour directed at an individual, not linked to the prohibited grounds (see below), which has the purpose or effect of unreasonably interfering with the person's work and/or creating an intimidating, humiliating, hostile or offensive work environment.*

#### **3. Sexual Harassment.**

*One, or a series of comments or conduct of a gender-related or sexual nature that is known, or ought to be known to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate. See below for a description of sexual harassment.*

#### **4. Prohibited Grounds.**

*Harassment is prohibited on the grounds of race, ancestry, place of origin, colour, ethnic or linguistic origin, citizenship, creed, sex, sexual orientation, marital status, pregnancy, family status, age, or disability, as well as any other prohibited ground defined by legislation in the jurisdiction in which the Theatre Company/Producer has its point of origin.*

#### **5. Direction/Evaluation.**

*Harassment does not include either fulfilling the requirements of a performance (where no other part of this Agreement has been contravened) or direction and/or evaluation of an individual in order to have the musician improve their performance.*

### **C. Procedures.**

When any behaviour as enumerated above occurs:

C. 1) the offended party shall make known to the harasser, either directly or indirectly, that it is unwelcome behaviour.

C. 2) if the behaviour continues, the complainant shall report the offending behaviour to the Theatre, who at the discretion of the musician may inform the Association. Alternatively, the complainant shall report the matter to the Association who shall thereupon inform the Theatre.

C. 3) if the complaint is not resolved with the assistance of the Representatives of the Theatre and the Association, the complainant shall complete a Harassment Complaint Form (sample appended below) which shall provide the following information: name of respondent; details of the offending behaviour including date, time, number of occurrences, witnesses; section of Appendix D contravened; settlement required. A copy of the form shall be given to each of the above Representatives.

C. 4) the Theatre Representative shall provide a copy of the complaint to the respondent, request a prompt response to the allegations and, if possible, bring the parties together to attempt to resolve the issue.

C. 5) in the event of failure to resolve the complaint, the Theatre has the duty to take immediate steps to investigate the complaint in as discreet and confidential a manner as possible. The Theatre Company/Producer, at its own cost, may appoint a neutral third party to conduct this investigation.

C. 6) based on the findings of the investigation, and with the agreement of the Association, the Theatre may take whatever action it feels is necessary, up to and including termination of a musician's contract of engagement if it finds in favour of the complainant. A complaint under the provisions of this Appendix D shall in no way prejudice the complainant's engagement, except in the event that if the investigation reveals that the complaint was frivolous, vexatious or made in bad faith, a similar sanction may be brought against the complainant.

C. 7) in the circumstances outlined above, the Theatre may request relief from the provisions of this agreement in order to terminate the musician's engagement contract without further remuneration. The Association may grant such relief provided it is satisfied that such termination of the musician's contract is appropriate.

C. 8) in the event that the Theatre and the Association are in dispute with respect to any matter arising from the application of this Appendix D, either party may refer the dispute to the Dispute Resolution procedures of Appendix C.

#### **D. Sexual Harassment.**

D.1) For the purpose of this Appendix D, sexual harassment is defined as an incident involving unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature, when:

- a) *such conduct might reasonably be expected to cause offence or humiliation to another person or group of persons; or*
- b) *the submission to such conduct is made implicitly or explicitly a condition of work; or*
- c) *submission to such conduct is accompanied by a reward, or the express implied promise of a reward for compliance; or*
- d) *rejection of such conduct is accompanied by a reprisal, or an express implied threat of reprisal for refusal to comply; or*
- e) *such conduct has the effect of interfering with a musician's work or performance by creating a hostile or offensive environment.*

D.2) Types of behaviour which constitute sexual harassment include, but are not limited to:

- a) *unwelcome remarks, jokes, innuendos or taunts about a person's body, attire, gender or sexual orientation, told or carried out after the individual has been advised that their actions are offensive or embarrassing; or*
- b) *insulting gestures of a sexual nature, or other behaviour which causes discomfort, awkwardness, or embarrassment; or*
- c) *displaying pornographic material, pin-up pictures, or other sexually offensive materials in the specific environment in which the complainant is required to work; or*
- d) *degrading remarks directed at members of one sex or sexual orientation; or*
- e) *unnecessary and/or persistent unwelcome physical contact; or*
- f) *leering, whistling, or other suggestive or insulting sounds; or*
- g) *demands for sexual favours; or*
- h) *unwelcome and inappropriate inquiries about a person's sex life or sexual preference.*

**APPENDIX G                    HARASSMENT COMPLAINT FORM**

**Complainant's Name:**

Address:

Telephone:

Fax:

**Representative of Second City:**

**Position:**

**Respondent's Name:**

Address:

Telephone:

**Position:**

Clause of Appendix D (to the General Theatre Agreement) under which this complaint is being filed:

**In your own words, and in the space provided below, please indicate the details of your complaint (If you would like to provide a more detailed description, please attach to this form):**

**Please describe any actions that you have taken to try to resolve this problem:**

**What do you require to resolve this complaint:**

**Signature of complainant:**

**Date:**

Please note that this document and any attachments to it that you provide in the course of filing a complaint is held in strict confidence. The complaint form and any attachments will be disclosed to the respondent named in the complaint and to the investigator, adjudicators and mediators appointed to assist with the resolution of this complaint, as outlined in the Harassment Policy procedures. Your signature confirms that you have been made aware of the foregoing and give permission for the above use of this information.